

HISTORY

[no material in this edition]

INDIVIDUAL SUBJECTS/AREAS OF LAW

Teaching statutory law

J Stark

44 *J Legal Educ* 4, December 1994,
pp 579-587

Statutory analysis is a vital component of the practice of law but law schools pay little attention to it. Many of the questions arising in practice do not require the mental gymnastics performed during law school and often a quick read of the relevant statute can efficiently answer a client's problem. However, many statutes are far from unambiguous.

Learning to read statutes is a necessary lawyerly skill and should be acquired as soon as possible in law school. There is a tendency to slight statutes at law school in the false belief that case law is the law and that statutes are an illicit intrusion into the world of judge-made law. The author spells out the benefits of teaching statutory law at law school.

The first question is whether it should be taught as a subject in its own right or added to the curriculum of existing subjects. By devoting a whole subject to statutory law, students are prevented from thinking that they are studying a body of law rather than learning to use statutes. Conversely, with respect to the integrated approach, some of the insights generated from the study of a body of law are required to illustrate nuances in statutory

interpretation and use. The author comes down on the side of a course based on a body of law as the preferred approach.

The first unit of a course on statutory law should provide a brief general history of statutes - that they are shaped by forces in the community and direct behaviour. The second unit would involve learning to read statutes and the recognition that their main virtue should be accuracy in effecting the desired policy and not, as the plain language school would advocate, clarity. This means that even if a statute is difficult to comprehend but still accomplishes its purpose, then it is a success. Statutes are highly conventional in the strict sense of following conventions. Statutes are systems and may contain sub-systems. Sub-systems may be sequentially ordered or scattered throughout the statute, and finding all the relevant parts can be a demanding task.

The third unit would serve as a reminder that statutes are not self-contained but interact with the real world by directing behaviour. The fourth unit could involve students drafting amendment bills to change or augment statutes. Legislative drafting would be the heart of the course and would necessitate an investigation into the ways in which judges read statutes and the canons of statutory construction. Finally, once students had become expert at reading the statutes accurately, they would then be allowed to read legal opinions interpreting the statutes, the intellectual respectability of which would probably look very different to them at that point than it would have looked before they began the course.

Increased attention to statutory law would help to correct Langdell's

error of overemphasising case law, which has plagued legal education for decades.

Swimming lessons: an orientation course for foreign graduate students

J E Hanigsberg

44 *J Legal Educ* 4, December 1994,
pp 588-603

The number of foreign (civil or Roman law lawyers) graduate students in American law schools is steadily rising, yet there has been little discussion of the special educational needs of this diverse group. The author proposes a single semester course aimed at providing practical orientation for foreign law students by offering instruction on the basics of the common law.

The aim of the orientation course is to enable the students to make the most of the legal training that they will receive at the American law school. It would provide the students with the necessary skills and ease them into the law school environment. The workload should not be too onerous and the course should provide adequate time for thought and reflection. The teacher should be familiar with civil law and have an interest in comparative perspectives.

The first goal of the course should be to introduce foreign students to the American method of law teaching, in particular the case based and the Socratic methods. The second goal should be to introduce the basic analytical techniques, such as the doctrine of precedent, the concept of stare decisis, the meaning of obiter and ratio and the technique of distinguishing cases. The third goal of the course would be to provide an overview of the contents of an American law library and the